

Decision 13-09-035 September 19, 2013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Peninsula Corridor Joint Powers Board (Caltrain) requesting authority to reconstruct the existing Paul Avenue Overhead at MP 4.15 located within the City and County of San Francisco and for an exemption From General Order 26-D.

Application 13-02-020
(Filed February 28, 2013)

DECISION GRANTING AUTHORIZATION TO THE PENINSULA CORRIDOR JOINT POWERS BOARD TO RECONSTRUCT THE EXISTING PAUL AVENUE OVERHEAD AT MP 4.15 LOCATED WITHIN THE CITY AND COUNTY OF SAN FRANCISCO AND FOR AN EXEMPTION FROM GENERAL ORDER 26-D

Summary

This decision grants the Peninsula Corridor Joint Powers Board authorization to reconstruct the existing grade-separated highway-rail crossing of Paul Avenue over their tracks at Mile Post 4.15 in the City of San Francisco and an exemption from General Order 26-D vertical clearance requirement. The Paul Avenue grade-separated crossing is identified as CPUC Crossing No. 105E-4.15-A.

Discussion

The railroad overpass reconstruction in this application is part of an overall state-of-good-repair project undertaken by the Peninsula Corridors Joint Powers Board (PCJPB or Caltrain) to repair or replace all deficient structures along the railroad. The Paul Avenue Bridge was constructed in 1930 and is well past its useful life.

The Paul Avenue Bridge has an existing overhead clearance of 19.81 feet over Caltrain tracks, which complies with the California Public Utilities Commission's (Commission) General Order (GO) 26-D, Section 2.1, for existing bridges constructed prior to the effective date of GO-26-D. However, according to the same section, a minimum overhead clearance of 22.5 feet would apply to the reconstruction of the bridge. Caltrain seeks an exemption from GO 26-D to reconstruct the bridge with clearance similar to the existing bridge. In its application, Caltrain states "Raising the bridge would require a major reconstruction on the grade lines of the roadway and adjacent streets and driveways in the City and County of San Francisco." The additional significant costs to modify the local roadway network and property owner access along these streets were deemed to be of little value because a number of other structures and locations along the rail line have similar clearances.

Proximity overhead clearances on this line include 20.04 feet over tracks in tunnel 3 to the north (MP 3.63); 19.71 feet over tracks in tunnel 4 to the south (MP 4.27); and less than 22.5 feet over tracks in tunnels 1 and 2 which are located less than 2.5 miles to the north of Paul Avenue.

For the aforementioned reasons, Caltrain desires to rebuild the bridge with similar overhead track clearance to that which has existed since 1930 and requests authorization for an exemption to reconstruct the bridge with an overhead track clearance of 20.3 feet.

The scope of this project is not intended to modify the location or elevation of any tracks. The existing tracks meet the requirements of the GO 26-D, Section 5.5, and this project will provide overhead track clearances at the new bent structure for the bridge that will not preclude future compliance with the GO 26-D, Section 3.2 and 5.1 for side clearances (8.5 feet for tangent track, 9.5 feet for

curved track) and center lines of parallel tracks (14 feet) nor the GO 26-D, Section 2.1 (overhead clearance of 22.5 feet) should the tracks be reconstructed.

Caltrain has coordinated with and served this application upon the City and County of San Francisco, Union Pacific Railroad (UPRR), and the California High Speed Rail Authority. All parties are in agreement with the Caltrain request and no protests have been received.

The proposed reconstruction promotes public safety by ensuring that this critical artery that connects the Bayview and Hunters Point neighborhoods from US 101 to Third Street is kept in operational condition. Additionally, the City and County of San Francisco has a sewage pipeline that is attached to the bridge structure and needs the bridge reconstructed to accommodate an increase in sewage capacity over the structure.

Caltrain and UPRR operate 86 passenger and 4 freight trains daily, respectively, over the tracks. The maximum speeds are 79 miles per hour for passenger and 40 miles per hour for freight trains.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, Caltrain is the lead agency for this project because the project is located on the Caltrain mainline and Caltrain is undertaking the project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³

Caltrain has determined the San Francisco Reconstruction of Paul Avenue Bridge Project to be statutorily exempt under Public Resources Code Section 21080.13 which provides exemption from CEQA for "... any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation."

On July 14, 2008, the Caltrain filed a Notice of Exemption with the City of San Francisco showing the exemption status as statutory exemption.

The Commission reviewed and considered the Notice of Exemption and finds it adequate for our decision-making purposes.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division – Rail Crossings Engineering Section has reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to reconstruct the bridge and an exemption to reconstruct the existing bridge with a clearance of 20.3 feet be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3311, dated March 21, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Emory J. Hagan III is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on March 6, 2013. There are no unresolved matters or protests. A public hearing is not necessary.
2. Caltrain requests authority, under Public Resource Code Sections 21080.13, to reconstruct an existing bridge over the Caltrain mainline.
3. Caltrain also requests authorization for an exemption to reconstruct the existing bridge with an overhead clearance of 20.3 feet over Caltrain tracks.
4. Caltrain is the lead agency for this project under CEQA, as amended.
5. Caltrain prepared a Notice of Exemption for this project and filed with the City of San Francisco Clerk on July 14, 2008, that includes a statement claiming the project is exempt under Public Resources Code Section 21080.13.
6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Notice of Exemption, including Public Resources Code Section 21080.13.
7. The Notice of Exemption reflects the Commission's independent judgment and analysis.

Conclusions of Law

1. The Notice of Exemption prepared by Caltrain as the documentation required by CEQA for the project is adequate for our decision-making purposes.
2. The application is uncontested and a public hearing is not necessary.
3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The Peninsula Corridor Joint Powers Board is authorized to reconstruct the existing Paul Avenue Bridge over the track and right-of-way of the Peninsula Corridor Joint Powers Board in the City of San Francisco.

2. The Paul Avenue grade-separated crossing is identified as CPUC Crossing No. 105E-4.15-A.

3. The request for an exemption from the requirements of General Order 26-D for the overhead clearance is granted. The minimum overhead track clearance shall be 20.3 feet as specified in the application and plans.

4. The Peninsula Corridor Joint Powers Board shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossing Engineering Section at least five (5) business days prior to opening of the new crossing structure. Notification should be made to rces@cpuc.ca.gov.

5. Within 30 days after completion of the work under this order, the Peninsula Corridor Joint Powers Board shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossing Engineering Section in writing, by submitting a completed Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpus.ca.gov/formg>. This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

6. Within 30 days after completion of the work under this order the Peninsula Corridor Joint Powers Board shall notify the Federal Railroad Administration of

the changes to the crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Section. This copy of the form may be submitted electronically to rces@cpuc.ca.gov .

7. Except as noted above in Ordering Paragraph No. 3, the Peninsula Corridor Joint Powers Board shall comply with all applicable rules, including California Public Utilities Commission General Orders and the California Manual on Uniform Traffic Control Devices.

8. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

9. A request for extension of the three-year authorization period must be submitted to California Public Utilities Commission's Safety and Enforcement Division – Rail Crossing Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

10. The application is granted as set forth above.

11. Application 13-02-020 is closed.

This order becomes effective today.

Dated September 19, 2013, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

CARLA J. PETERMAN

Commissioners